CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION
IN RE APPLICATION OF

Town of Charlotte
Final Plat Application
For A
Four-Lot Major Planned Residential Development
Application # PC-10-09

Background

The project is located on a 54.2 acre parcel, divided into three lots in 1986 by the then owners, Earl and Mary Burns, conveyed to the town in August, 2000. The project seeks to re-configure the existing three lots into four lots, three into house lots of less than ½ acre each dedicated for affordable housing with the fourth remainder lot retained by the town. Sketch Plan Review was held on July 16, 2009. A Preliminary Plat hearing was held on December 17, 2009. Preliminary Plat approval was granted on January 21, 2010.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A final plat public hearing was held on April 1, 2010. The town was represented by Town Planner, Dean Bloch. The presentation to the Planning Commission was made by Dave Marshall of Civil Engineering Associates, Inc. David Mullin of Green Mountain Habitat for Humanity, co-applicant with the town, was present but did provide testimony. Charles Russell and Jenny Cole of the Select Board were in attendance but did not provide testimony. Neighbors in the vicinity of the project, Maura O'Dea and Michael and Karen Frost, were in attendance and made comments regarding water supply for the project.

Regulations in Effect

Land Use Regulations, amended March, 2009.
Town Plan, amended March, 2008.
Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The Town of Charlotte is owner of 54.2 acres, more or less, of land identified in the town land records as Parcel ID #00004-3205 located at 3205 Greenbush Road, east side.
2. The parcel is currently made up of three contiguous lots created by legal subdivision of Earl and Mary Burns in 1986.
3. Green Mountain Habitat for Humanity, David Mullin, Executive Director, is co-applicant of this project.
4. The parcel lies within the Rural and Commercial Light Industrial Zoning Districts.

5. The project is classified a major planned residential development for affordable housing in accordance with Town of Charlotte Land Use Regulations Chapter 4, Section 4.4; Chapter VI, Chapter VII and Chapter VIII. The commission finds the project satisfies the Planned Residential Development requirements found in Sections 8.4 (B) and 8.4 (D).
6. The application is timely and complete in satisfaction of Chapter VI, Section 6.5 (A)
7. Fees for the application were waived by the Select Board. [(Section 4.4 (G) (6)]
8. A public hearing for the application was duly warned, noticed and posted in satisfaction of Chapter IX, Section 9.9 (C)(1)
9. The existing parcel is proposed for re-configuration into four lots; Lot 1, 0.45 acres, Lot 2, 0.41 acres, Lot 3, 0.45 acres; and, Lot 4, 53 acres.
10. Lots 1, 2 and 3 are proposed for perpetually affordable housing units to be built by Green Mountain Habitat for Humanity. These lots will be privately owned.
11. Lot 4, the remaining land, will be retained by the Town of Charlotte.
12. As a planned residential development for affordable housing, the commission finds the proposed project meets the density requirements of Section 8.4 (B) (3) and Table 4.1a.
13. The parcel contains the following *areas of high public value*:
    A. Class II Wetlands: A large, delineated Class II Wetland is located on a good portion of proposed Lot 4. Proposed Lots 1, 2 and 3 are outside the wetland buffer setback. Infrastructure for the building lots is also located outside the wetland buffer setback. The commission finds the proposed development poses no adverse impact to the wetlands.
    B. Special Natural Areas: A mapped Clay Plain Forest is located on Lot 4. All development is proposed outside the Clay Plain Forest. The commission finds the proposed development poses no adverse impact to the Clay Plain Forest.
    C. Land in Active Agricultural Use: Currently the town has the meadow portion of Lot 4 mowed for hay/silage. The town does not intend to alter this arrangement after build-out of the proposed project. The commission finds the proposed development poses no significant adverse impact to the land currently in active agricultural use.
    D. Conserved Land: The land directly south of and adjacent to the proposed project is conserved. The commission finds the proposed development will have no adverse impact to the conserved land
    E. Forest Habitat/Linkage: The eastern half of the parcel is forested and provides wildlife habitat linkage to other forested habitat areas farther to the east in the Pease Mountain area. The project does not propose development within the forested portion of the property. The commission finds the proposed development will have no adverse impact to the forest habitat/linkage portion of the parcel.
14. Lot 4 is currently developed with a community wastewater system that serves the town library, office building, fire and rescue and the senior center. Lot 4 is further developed with a drilled well owned by the town with rights to the well shared by the Gaujac parcel (Old Lantern) and the Wygmans/O'Dea parcel, both on the west side of Greenbush Road. An existing gravel driveway affording access to Lot 4 is located to the north of the proposed affordable housing lots.
15. Lots 1, 2 and 3 are proposed for affordable homes intended for construction by Green Mountain Habitat for Humanity. Each home is proposed for 3 bedrooms..The lots are less than ½ acre each and the house sites are situated along Greenbush Road with

staggered setbacks to mimic the historic development of the west village area directly to the north of the project. The homes are proposed to be constructed so as to maximize solar access. The commission finds the project satisfies Section 7.3 of the regulations, District Standards.

16. Lots 1 and 2 received Highway Access Permit HAP-10-04 for a shared driveway.
17. Lot 3 received Highway Access Permit HAP-10-03. The commission finds that this approved access to Lot 3 impairs a mature maple tree on the lot and that the driveway cut should shift farther south a distance sufficient to preserve the maple.
18. The commission further finds the 14' width of the driveways adequate and that such width will not hinder fire and rescue operations. The commission finds the driveways satisfy the driveway standards of Section 3.2 of the regulations.
19. The commission finds the project will not create a burden on existing municipal and educational facilities and services in satisfaction of Section 7.5 of the regulations.
20. Wastewater Disposal System and Potable Water Supply Permit WW-138-1002 for septic systems and drilled wells for the 3 affordable housing building lots was issued to the town on March 15, 2010.
21. The wastewater disposal systems will be located on Lot 4 retained by the town. Draft language for a Sewage Service Agreement, Waiver, and Easement was submitted with the application to be executed between the town and Green Mountain Habitat for Humanity.
22. Individual wells on each of the 3 affordable housing lots are proposed. Should the water yield of the first drilled well have capacity sufficient for all 3 lots, this water supply will be shared by all 3 lots. If a second drilled well is necessary and this well has water capacity sufficient for 2 lots, this water supply will be shared by the remaining 2 lots. A draft Water Service Agreement and Waiver was submitted with the application to be executed by the town and Green Mountain Habitat for Humanity should such a document be required for a shared water supply system.
23. The commission finds Section 7.6, Water Supply, and Section 7.7, Sewage Disposal, satisfied.
24. Lot 4 retained by the town is developed with a drilled well. Water rights to this well are shared by property owners Roland and Lisa Gaujac, owners of The Old Lantern, and property owners Justin Wygman and Maura O'Dea, owners of a single family residence, both on the west side of Greenbush Road. The water line from this well, located on a portion of Lot 4 commonly known as "The Flea Market" near the eastern property line of Lot 4 close to Route 7, is depicted on Sheet 1 and Sheet 2 of the overall site plan as crossing building Lot 1 before crossing Greenbush Road. The 20' easement for this existing water line as depicted on Sheet 1 and Sheet 2 as intersecting the proposed building envelope on building Lot 1. The commission finds that the Lot 1 building envelope should be shifted and depicted so as not to intersect the 20' easement for the existing well on Lot 4.
25. The applicant presented a proposed site grading and drainage plan (Sheet C3) that proposes that the foundation drainage from Lot 1 "daylight" onto Lot 4. The commission finds the drainage improvements for Lot 1 should not "daylight" onto Lot 4.
26. The applicant submitted erosion control and storm water management plans for the project. The commission finds the plans satisfy the conditions of Section 7.8.
27. The commission finds the Open Space plan submitted on Sheet C2 of the application, the Option 1 plan presented at the preliminary hearing, acceptable and in satisfaction of

Sections 8.6 and 8.4 (D) (2) of the regulations.

28. The commission finds the landscaping plan presented satisfies Section 7.9 of the regulations.
29. The commission finds the project will not have an undue impact on traffic along Greenbush Road or in the vicinity of the West Charlotte Village four corners and satisfies Section 7.10 of the regulations.
30. No common or conserved land is proposed for the project.
31. Draft Warranty Deed and Housing Subsidy Covenant language for the affordable housing units was submitted with the Final Plan application.
32. On June 2, 1992, adjacent property owner Richard LeBoeuf was granted a 20' easement for a sewer force main that runs along the easterly edge of Greenbush Road on the applicant's parcel. This easement runs across the front property line of the 3 affordable building lots proposed by the applicants. The easement deed language prohibits improvements on or within the 20' easement. The commission finds that the proposed two driveways for the building lots are not improvements as prohibited by the easement deed granted Mr. LeBoeuf. The commission further finds that the applicants must make all necessary modifications to the force main within the area of the easement impacted by build-out construction of the project to protect the force main from damage and winter freeze and that approval for such modifications shall be obtained from the holder of the easement in advance of any such work.
33. A phasing schedule was proposed for the project build-out with Lots 1 and 2 scheduled to begin construction in the spring of 2010 with anticipated completion in the fall of 2010. Lot 3 is scheduled for construction in the fall of 2010 with completion anticipated in the spring of 2011.
34. The commission finds the draft legal documents presented with the application in satisfaction of Section 7.12 of the regulations.

Decision

Based on these Findings, the Planning Commission approves Final Plat Application PC-10-09 with the following conditions:

1. Sheet 1 and Sheet 2 of the survey submitted by Civil Engineering Associates and prepared by Timothy R. Cowan, L.S. will be converted to mylars for recording in the Town of Charlotte land records within 180 days of the date of this decision.
2. Sheet 1 of the survey shall be revised such that the building envelope on Lot 1 does not intersect with the 20' easement depicted for the existing water line that crosses Lot 4 and Lot 1.
3. Sheet 1 and Sheet 2 shall be further revised to eliminate the drainage easement and drainage components depicted on the draft sheets presented with the application. Drainage from Lot 1 is not to "daylight" onto Lot 4.
4. The revised mylars shall show new revision dates and be stamped and signed by the surveyor.
5. Sheet C6.1 shall be revised to add a typical driveway detail crossing of the LeBoeuf force main easement.
6. All utilities shall be buried underground.

7. The driveway for Lot 3 shall be shifted south a distance sufficient to preserve the mature maple tree located within the area of the proposed driveway location.
8. The driveways shall be covered in non-white crushed stone.
9. Prior to making application for a zoning permit for the affordable housing units, the building envelopes shall be staked.
10. Prior to making application for the first Certificate of Occupancy, the applicants shall submit a certificate from a qualified engineer that all utilities and driveways have been constructed in full conformance with the approved plans and conditions of this approval.

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearing on April 1, 2010: Jeff McDonald, John Owen, Linda Radimer, Ellie Russell, Paul Landler and Jim Donovan.
Members Not in Attendance: Peter Joslin

The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed: _____ For / Against Date Signed: 5/7/10
2. Signed: _____ For / Against Date Signed: 5/10/10
3. Signed: _____ For / Against Date Signed: 5/10/10
4. Signed: _____ For / Against Date Signed: 5/10/10
5. Signed: _____ For / Against Date Signed: _____
6. Signed: _____ For / Against Date Signed: _____
7. Signed: _____ For / Against Date Signed: _____

APPENDIX A

The application consists of:

1. An application form with fee waived by the Select Board.
2. A two page narrative prepared by David S. Marshall of Civil Engineering Associates, Inc. addressing those requirements for Final Plat application imposed by the Planning Commission in the Preliminary Plat approval dated January 21, 2010.
3. Copies of email correspondence between Town Planner Dean Bloch and Charlotte Fire Chief Chris Davis regarding the width of the proposed driveways.
4. Five page narrative prepared by Town Planner Dean Bloch addressing compliance of the project with the Town Plan.
5. One page narrative prepared by Town Planner Dean Bloch requesting waiver of Preliminary Plat Condition 9.A requiring draft Open Space Agreement.

6. Copy of list of abutting property owners.
7. Copy of document entitled "Green Mountain Habitat For Humanity, Wastewater Collection, Treatment and Disposal Facilities, Charlotte, Vermont, Operations & Maintenance Manual" prepared by David S. Marshall, P.E. of the firm Civil Engineering Associates, Inc.
8. Copy of the Highway Access Permit, HAP-10-13, issued the applicant for the project.
9. Copy of email correspondence dated March 24, 2010 between Dean Bloch, Town Planner and Rick DeAngelis of Vermont Housing and Conservation Board regarding an affordability covenant for the project.
10. Copy of an engineering document entitled "Section A-A, Sewer Force Main Protection Detail" without attribution that purports to demonstrate applicant's proposal to protect a sewer force main from construction of driveways across the force main easement area.
11. Copy of draft language for a "Sewage Service Agreement, Waiver, and Easement" that would be executed between the Town of Charlotte and Green Mountain Habitat for Humanity.
12. Copy of draft language for a "Water Service Agreement and Waiver" that would be executed between the Town of Charlotte and Green Mountain Habitat for Humanity.
13. Copy of draft language for "Housing Subsidy Covenant For Green Mountain Habitat For Humanity, Inc.".
14. Set of Final Plans prepared by Civil Engineering Associates, Inc. as follows:
    a. Sheet 1: "Detail View, Town of Charlotte's Burns Property"
    b. Sheet 2: "Overall View, Town of Charlotte's Burns Property"
    c. Sheet C1: "Overall Site Plan"
    d. Sheet C2 : "Open Space Plan"
    e. Sheet C3 : "Site Grading & Drainage Plan"
    f. Sheet C3.1: "Site EPSC Plan"
    g. Sheet C3.2: "Overall Site EPSC Plan"
    h. Sheet C3.3: "EPSC Narrative"
    i. Sheet C3.4: "EPSC Specifications"
    j. Sheet C3.5: "EPSC Details"
    k. Sheet C4: "Site Utility Plan"
    l. Sheet C5.0: "Overall Wastewater Plan"
    m. Sheet C5.1: "Wastewater Disposal System West Site Plan"
    n. Sheet C5.2: "Wastewater Disposal System East Site Plan"
    o. Sheet C6.0: "Wastewater Disposal System Details & Sections"
    p. Sheet C6.1: "Wastewater Disposal System Details"
15. A "Landscape Design Planting Plan" dated 11-25-09 prepared by Distinctive Landscaping